

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0184**  
**Individual Income Tax**  
**Calendar Year 1997**

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**ISSUE(S)**

I. **Adjusted Gross Income Tax** – Refund

**Authority:** IC 6-8.1-9-2

Taxpayer protests the additional assessment.

**STATEMENT OF FACTS**

Taxpayer, in a letter dated March 8, 1999 protested the department's additional billing for tax, penalty and interest.

Taxpayer mailed its IT-40 timely. In the processing of the return, an error was made in which the Indiana exemption of \$2,000 was entered instead of the correctly apportioned amount of \$800. Taxpayer was refunded \$338.54 instead of the \$298.00 on the return. The purpose of the billing was to correct the keypunch error and to obtain the \$40.54 refunded in error.

Taxpayer states that when she received the refund, it was her understanding that the department refunded \$298.00 plus \$40.54 interest. The department, however, found the error and billed the taxpayer for the \$40.54 tax overpaid. Taxpayer failed to repay the tax refund issued in error. On March 8, 1999 she protested with a letter indicating she should not be penalized for our mistake and believes the \$40.54 to be interest.

In a letter dated April 23, 1999, the Supervisor of Protest Review explained the reasons for the additional billing and asked for the tax balance due by May 15, 1999. On June 3, 1999, the supervisor sent another letter asking for the tax to be paid by June 30, 1999 or a hearing would be scheduled. There was no response and a hearing was scheduled for Thursday, July 29, 1999.

I. **Adjusted Gross Income Tax** – Balance Due

### **DISCUSSION**

At issue is whether the taxpayer must refund a portion of an erroneous payment in excess of the amount claimed on the tax return.

The department issued more refund than was claimed on the tax return. After finding the error, taxpayer was billed for the tax, penalty, and interest. Taxpayer failed to respond to requests for the repayment of the erroneous portion and states she felt it was interest.

The department requested repayment on several occasions, to no avail. The letter of finding serves as a formal request for the return of monies issued in error. The department waives the penalty assessed due to its error.

### **FINDING**

Taxpayer's protest is denied in part and sustained in part. Tax issued to taxpayer in error must be repaid to the Department and the penalty in the amount of \$5.00 is hereby waived.